

1                                    IN THE UNITED STATES DISTRICT COURT  
2                                    FOR THE NORTHERN DISTRICT OF CALIFORNIA

3  
4 JON ALMGREN, et al.,  
5                                    Plaintiffs,  
6                                    v.  
7 WILLIAM SHULTZ, et al.,  
8                                    Defendants.

No. C 16-2611 CW

ORDER DISMISSING  
PLAINTIFFS' STATE  
LAW CLAIMS AGAINST  
DEFENDANT WILLIAM  
SHULTZ

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11                                    Plaintiffs Jon Almgren and Melissa Almgren move for default  
12 judgment against Defendant William Shultz. They ask the Court to  
13 retain jurisdiction over their state law claims against him.  
14 Docket No. 33. Defendant William Shultz defaulted. Docket No.  
15 22. Having considered the papers filed by Plaintiffs, the Court  
16 declines to exercise supplemental jurisdiction over Plaintiffs'  
17 state law claims and dismisses them without prejudice to re-filing  
18 them in state court.

19                                    BACKGROUND

20                                    This case arises from the tragic death of nine-year-old  
21 Jordon Almgren on April 26, 2015 at the hands of Defendant William  
22 Shultz. The Court has previously summarized the facts of the  
23 case. Docket No. 19.

24                                    On May 13, 2016, the Almgrens filed this suit as individuals  
25 and as successors-in-interest and personal representatives of the  
26 estate of their son, Jordon Almgren, against William and Katherine  
27 Shultz, Contra Costa County, Contra Costa Health Services, Contra  
28 Costa County Office of the Sheriff, and Contra Costa County

1 Sheriff's Deputy Miguel Aguilera. Docket No. 1. On July 18,  
2 2016, the Court dismissed Plaintiffs' claims against the last four  
3 Defendants listed, referred to as County Defendants, with leave to  
4 amend within fourteen days, Docket No. 19, and ordered Plaintiffs  
5 to request entry of default against William and Katherine Shultz,  
6 Docket No. 18. On July 27, 2016, Plaintiffs and County Defendants  
7 entered a stipulated dismissal of the claims against County  
8 Defendants. Docket No. 23. As a result, only state law claims  
9 against individual Defendants William and Katherine Shultz  
10 remained.

11 On August 1, 2016, Defendant Katherine Shultz filed her  
12 answer to Plaintiffs' complaint. Docket No. 24. On August 2,  
13 2016, the Court ordered Plaintiffs to demonstrate the Court's  
14 jurisdiction over their claims against Katherine Shultz. Docket  
15 No. 25. On August 12, 2016, the Court dismissed the claims  
16 against Katherine Shultz without prejudice. Docket No. 27.

17 On July 28, 2016, the Clerk entered default as to Defendant  
18 William Shultz. Docket No. 22. On August 16, 2016, the Court  
19 ordered Plaintiffs to move for default judgment against William  
20 Shultz and to demonstrate the Court's jurisdiction over their  
21 claims against him. Docket No. 28.

22 LEGAL STANDARD

23 A district court must exercise supplemental jurisdiction over  
24 all non-federal claims that are "so related to claims in the  
25 action within such original jurisdiction that they form part of  
26 the same case or controversy under Article III of the United  
27 States Constitution." 28 U.S.C. § 1367(a). A district court may  
28 decline to exercise supplemental jurisdiction when "the district

1 court has dismissed all the claims over which it has original  
2 jurisdiction." 28 U.S.C. § 1367(c)(3); Acri v. Varian Associates,  
3 Inc., 114 F.3d 999, 1001 (9th Cir. 1997) (en banc) (district  
4 court's discretion to decline to exercise supplemental  
5 jurisdiction is triggered by any one of the conditions in  
6 § 1367(c)).

7 The Court's "discretion to decline to exercise supplemental  
8 jurisdiction over state law claims . . . is informed by the  
9 [United Mine Workers v. Gibbs, 383 U.S. 715 (1966)] values of  
10 'economy, convenience, fairness, and comity.'" Acri, 114 F.3d at  
11 1001. Following Supreme Court precedent, the Ninth Circuit has  
12 repeatedly held that, "in the usual case in which all federal-law  
13 claims are eliminated before trial, the balance of factors . . .  
14 will point toward declining to exercise jurisdiction over the  
15 remaining state-law claims." Id. at 1001 (quoting Carnegie-Mellon  
16 University v. Cohill, 484 U.S. 343, 350 n.7 (1988)). As a result,  
17 in such a case state law claims generally should be dismissed,  
18 although dismissal is not required. Id. at 1000 (citing Gibbs,  
19 383 U.S. at 726); Carnegie-Mellon, 48 U.S. at 350.

20 DISCUSSION

21 Because jurisdiction is a threshold matter, Steel Co. v.  
22 Citizens for a Better Environment, 523 U.S. 83, 94 (1998), the  
23 Court considers first the issue of supplemental jurisdiction over  
24 Plaintiffs' state law claims. Because the Court declines to  
25 exercise supplemental jurisdiction over Plaintiffs' state law  
26 claims, it does not reach Plaintiffs' motion for default judgment.

27 Because Plaintiffs' four federal claims have been dismissed  
28 and Plaintiffs have not alleged any federal claims against the

1 sole remaining Defendant, the Court has discretion to decide  
2 whether to exercise supplemental jurisdiction over Plaintiffs'  
3 remaining state law claims. The Court's discretion is guided by  
4 the Gibbs factors of economy, convenience, fairness and comity.

5 Plaintiffs urge the Court to retain supplemental jurisdiction  
6 over their wrongful death and intentional infliction of emotional  
7 distress claims in order to enter default judgment and hold a  
8 hearing on the amount of damages. Plaintiffs argue that these  
9 final proceedings are not complex, and that declining jurisdiction  
10 would force Plaintiffs to expend additional resources to sue  
11 William Shultz in state court.

12 The Court finds that the Gibbs factors weigh against  
13 exercising supplemental jurisdiction over Plaintiffs' remaining  
14 state law claims. The case is not close to trial. It has been  
15 before the Court a relatively short time--approximately four  
16 months--and has not required complex motion practice or any  
17 discovery. The burden on a state court to familiarize itself with  
18 the facts and history of this case would not be great. Plaintiffs  
19 will not be materially harmed by any delay in their potential  
20 relief because Plaintiffs acknowledge that William Schultz is  
21 incapable of paying monetary damages at any point in the  
22 foreseeable future. Pl.'s Mot. for Default Judgment at 8.

23 Because only state law claims remain, comity strongly favors  
24 dismissal. Furthermore, the determination of Plaintiffs' damages  
25 under state law is not necessarily simple, even assuming  
26 Plaintiffs' evidence goes uncontested, and would best be decided  
27 by a state court with a "surer-footed reading of applicable law."  
28 Gibbs, 383 U.S. at 726.

1 Finally, the Ninth Circuit has repeatedly upheld district  
2 courts' exercise of discretion to decline supplemental  
3 jurisdiction over remaining state claims after federal claims had  
4 been dismissed. See, e.g., Coomes v. Edmonds School Dist. No. 15,  
5 816 F.3d 1255, 1265 (9th Cir. 2016) (affirming district court's  
6 summary judgment for defendants on federal claim and directing  
7 court on remand to "first consider whether to continue to exercise  
8 its supplemental jurisdiction" before considering remaining state  
9 law claim); Sanford v. MemberWorks, Inc., 625 F.3d 550, 561 (9th  
10 Cir. 2010) ("[I]n the usual case in which all federal-law claims  
11 are eliminated before trial, the balance of factors to be  
12 considered under the pendent jurisdiction doctrine--judicial  
13 economy, convenience, fairness, and comity--will point toward  
14 declining to exercise jurisdiction over the remaining state-law  
15 claims.") (quoting Carnegie-Mellon, 484 U.S. at 350 n.7).

16 Accordingly, the Court concludes that the balance of factors  
17 tips against retaining the state law claims and dismisses these  
18 claims without prejudice to re-filing in state court.

19 CONCLUSION

20 For the reasons set forth above, Plaintiffs' motion is  
21 DENIED. Plaintiffs' state law claims against Defendant William  
22 Shultz are dismissed without prejudice to re-filing in state  
23 court.

24 IT IS SO ORDERED.

25  
26 Dated: October 5, 2016



27 CLAUDIA WILKEN  
28 United States District Judge